

# SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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## San Francisco Bay Conservation and Development Commission

### Initial Statement of Reasons Amendments to Regulations Appendix D Permit Application Form

#### Problem

The Commission's permit application form was last amended in the year 2000. Since that time, the Commission has updated several of its policies in the *San Francisco Bay Plan*. The application form, as a regulation, is therefore out of date and does not address several policies that the Commission must evaluate in determining whether to issue a permit.

In addition, the Commission staff's years of experience with processing the application have revealed that some of the questions are duplicative, unclear, not sufficiently specific concerning existing laws and policies, are vague, are incorrect, or are difficult to use. Further, over the years, the applicants have indicated when questions are unclear or confusing to them.

#### Purpose

One purpose of the proposed revisions is to generate information necessary to an analysis of the project under relevant laws and policies. This analysis will allow the Commission to determine whether the project would be consistent with the Commission's current laws, including the McAteer Petris Act and Suisun Marsh Preservation Act, and policies of the *San Francisco Bay Plan* and *Suisun Marsh Protection Plan*.

Another purpose is to streamline, correct, and clarify the application and make it easier to use by applicants.

The McAteer Petris Act Section 66632(b) (California Government Code) provides the Commission the authority to "...establish reasonable requirements to assure that sufficient information is provided by permit applicants to allow the commission to act on the applications." In light of revised Bay Plan policies, the application form should be updated to reflect current laws and policies.

#### Proposal and Necessity

The proposal would accomplish the following. Each point is accompanied by an explanation of its necessity.



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**Application Checklist:**

1. Add "property" to clarify that a "legal interest" refers to a property document. Currently, " legal interest" is unclear and the wording should be consistent with other references to property interests in the Commission's regulations, such as Appendix F that describes the acceptable property interests.
2. Add "discretionary" to clarify that the Commission requires only local discretionary approvals and not non-discretionary approvals such as grading permits.
3. Add "water quality certification/ waiver" to the checklist. Currently the application requires submittal of the waiver (currently, Box 8 question 1.3) but including it in the checklist will assist applicants when identifying documents that must be submitted.
4. Amend reference to the "Permit processing fee" to read "Application processing fee," change the fixed range of fees to a reference to Appendix M, and add a footnote. Applicants have been confused about how to calculate their application fee.

Necessity: first, the fee is for processing an application, not a permit. Second, the Commission has undertaken a rulemaking to increase its application fees and to possibly revise them yearly in order to generate 20% of its regulatory program costs. Once approved by the State Office of Administrative Law, Appendix M will contain the correct statement of fees. The footnote clarifies that the fee can be determined after an applicant submits the application form.

5. Consolidate the reference to the Notice of Pending Application and Certification of Posting the Notice. These references have long confused applicants. The amendment would clarify that the Notice and Certification forms will be sent to the applicant once an application form is received, and the requirement is that the Notice be posted and the Certification returned to BCDC.
6. Delete reference to federal consistency processing fee; as the Commission does not charge a fee for consistency reviews, a note in the checklist is not necessary.
7. Delete footnote stating that the Commission's Design Review and Engineering Criteria Review Boards may require additional drawings. This statement has been relocated to new Box 2 item q.10 regarding plan requirements.
8. Delete footnote stating details about submitting an environmental document. This information has been relocated to new Box 8 regarding environmental documentation.

**Box 1 Applicant Information**

This Box has been reorganized and amended in several ways:

1. The Box would indicate that it must be completed by all applicants. Each box has either this direction, or a question to help an applicant determine whether the Box applies to the project. In the absence of this direction, applicants have previously been confused as to which boxes they must complete.

2. Applicant information would appear first, in item a, rather than after, the property owner's information. This makes more sense than the current arrangement because the property owner may be the same as the applicant, and the application is identified by the applicant's name.
3. The applicant and co-applicant would indicate whether they own or lease the site, are a homeowners association, or have other property rights. This will help the Commission staff determine whether sufficient property rights exist for the proposed project and may clarify what rights the applicants hold to the project site.
4. In each case, the applicants and property owners would provide their email. Electronic mail has become a more common and standard means of communication, and providing the email address would facilitate communication from the staff.
5. When applicants or owners would indicate their title, if any, and when they authorize a representative, they would also print their name. When the Applicants and owners are a company, the Commission needs to know the person's title, for contact purposes. Further, at times, signatures have been unreadable and this will allow the staff to know who is signing the authorization.
6. Item d would refer to Appendix F, the current regulation that specifies the contents of the required property documents. This reference may assist applicants in understanding the nature and contents of acceptable property interests. A grammatical change is also included.
7. Item e is currently incorrect and so needs the revision to identify campaign contributions of more than \$250 to a commissioner. This item would be moved from existing Box 12 because it is more properly part of the applicants' information.
8. Item f, the certification of accuracy, would include an authorization to inspect the property during the time the application is pending. This will assist the staff in understanding the site and making a more accurate assessment of the proposed project.

The owner, if not an applicant, does not need to sign the form, so that element would be removed from the form.

## **Box 2**

The certification of accuracy is currently found in Box 2, but it can sensibly be included as the conclusion to Box 1. In addition, this deletion saves space on the form.

## **Box 3 Project Information**

1. Items 3.a, 3.b, 3.c, 3.d, and 3h have been relocated into new Box 4.f, 4.g, 4. h, 4.p, and 4.i, respectively, because this information all relates to the project information.

2. Item 3.e (Bay fill), 3.f (shoreline band) and 3.g (dredging) are intended to assist applicants in determining which “boxes” within the application the applicant must complete. However, the location of these questions in Box 3 has not helped because the direction given here is too removed from the relevant boxes. Instead, these questions have been relocated to new Boxes 3.a, 4.a and 6.a, respectively, where they can help applicants determine if each box must be completed.
3. Item 3.i, asking applicants to state the processing fee, has been deleted because it is not needed. Applicants do not generally know which fee applies because fees vary depending on the type and size of project. Therefore, applicants do not generally complete this item. As a practical matter, once the Commission staff receives an application the staff can help determine the fees.

#### **Box 4 Total Project and Site Information**

1. Box 4 would be re-numbered as Box 2 and would indicate that this box must be completed by all applicants. Each box has either this direction, or a question to help an applicant determine whether the Box applies to the project. In the absence of this direction, applicants have been confused as to which boxes they must complete.
2. Box 2 would add an item, d, for latitude and longitude if know. This information is more commonly used by local governments and for maps using global positioning technology. Although not required, this information will be helpful to staff in tracking location of projects, and determining whether this information should become a requirement in future.
3. Box 2 includes several minor additions that are editorial (items 2.k, 2.m and 2.n) or clarifying (item 2.g). Item 2.o would replace “underwater” with “subtidal” because that is the more accurate term used in the Commission’s policies. “Underwater” is a vague term that doesn’t necessarily relate to waters of the Bay over which the Commission has jurisdiction.
4. Box 2.r includes corrections to numbering and editorial changes and adds new questions:

Item r.1 would seek a detailed project description. The applicant’s description is provided to the Commission for its consideration of the project, so it is important for the applicant to provide a thorough description for complete understanding. This is also the applicant’s opportunity to fully describe the benefits of the proposed project. There currently is no place for such a description.

Item r.4 would be expanded to address the Commission’s Bay Plan policies on Water Quality that were revised in September 2003. Policy 3 states: “New projects should be sited, designed, constructed and maintained to prevent or...minimize the discharge of pollutants into the Bay by: (a) controlling pollutant sources at the project site; (b) using construction materials that contain non-polluting materials; and (c) applying appropriate, accepted and effective best management practices....” Policy 6 states: “To protect the Bay and its tributaries from the water quality impacts of non-point source pollution, new development should be sited and designed consistent with standards in municipal stormwater permits and state and regional

stormwater management guidelines...and with the projection of Bay resources.....” The addition to item q.4 asks applicants to describe how the project has been designed, constructed and maintained to accomplish these goals, and asks for any plans showing best management practices for the site. This information is necessary in order to apply the policies to a project where water quality would be an issue.

5. Item r.5 would ask for bathymetric features, hydrology and sediment movement, and the project’s influence on these factors. These are necessary to address the Bay Plan Subtidal Areas of the Bay policies that state, in part: “1. Any proposed filling or dredging project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects.” In addition, Policy 4 states that the design of any subtidal restoration project should take into account the “...characterization of and changes to local bathymetric features.”
6. Item r.6 would ask whether any endangered species or similar important species are located at the project site. The Commission must have this information to evaluate the project in light of the Bay Plan Policies Concerning Fish, Other Aquatic Organisms and Wildlife in the Bay. Policy 2 states: “Specific habitats that are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered, species that the California Department of Fish and Game has determined are candidates for listing as endangered or threatened under the California Endangered Species Act, or any species that provides substantial public benefits, should be protected....” Further, Policy 4(c) states that the Commission should: “Give appropriate consideration to the recommendations of the California Department of Fish and Game, the National Marine Fisheries Service or the United States Fish and Wildlife Service in order to avoid possible adverse effects of a proposed project on fish, other aquatic organisms and wildlife habitat.”

Item r.6 would note that an environmental document prepared by the lead agency is the likely source of this information, and this will assist some applicants who otherwise have no resources with which to respond to this question.

7. Item r.7 would require submittal of any “take” authorizations issued by agencies if the project would result in a take of endangered or threatened species. This is consistent with the Bay Plan Policies Concerning Fish, Other Aquatic Organisms and Wildlife in the Bay. Policy 4b states that the Commission should “Not authorize projects that would result in the “taking”...[without]... the appropriate “take” authorization....”
8. Item r.8 would ask applicants to identify subtidal areas that are scarce or have an abundance and diversity of fish or other wildlife, and to identify these areas on the site plan. This information is necessary to respond to the Bay Plan Findings and Policies Concerning Subtidal Areas in the Bay. Policy 2 states that such areas should be conserved. Identifying these areas will help in evaluating potential impacts, as will depicting these areas on the site plan.
9. Item r.10 would state the requirements for project site plans, and would state that additional plans may be required if the project is reviewed by the Commission’s Design Review and Engineering Criteria Review Boards. The current application

gives only cursory details about the plan requirements and applicants often do not submit plans with many of the basic elements. This discussion would be helpful to applicants by listing the most important features and citing Appendix F of the regulations, where a full description may be found. The statement about the Commission's Review Boards was relocated here from the Checklist so that all plan information is in one place.

#### **Box 5 Bay Fill Information**

1. Box 5 would be renumbered as Box 3. Items within Box 5 would be renumbered to accommodate a reorganization of this Box, and editorial changes are included for easier reading. In addition, the following substantive changes have been made.
2. Item 3.a would be moved from former Box 3.e to help applicants in deciding whether Box 3 must be completed.
3. Items separately identified as 5.b, c, d, e and f would be consolidated into item 3.c, because each element relates to the "type of fill" in the Bay.
4. Items separately identified as 5.g, h, i, j and k would be consolidated into item 3.e, because each element relates to the "areas" of Bay to be filled.
5. Item 3.e would include "tidal flat" as an area of fill. Previously, tidal flat (or mud flat) would have been included as a "wetland." The addition of this area is important because the Bay Plan policies call out tidal flats as a distinct area of the Bay with habitat values. The Bay Plan's Tidal Marsh and Tidal Flat Policy 1 states: "Tidal marshes and tidal flats should be conserved to the fullest possible extent. Filling, diking, and dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefits and only if there is no feasible alternative." Policy 2 states that filling, diking and dredging projects should be designed to minimize and avoid harmful effects on tidal marshes and tidal flats.

In addition, the Bay Plan's Water Quality Policy 1 states: "...The Bay's tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality."

For these reasons it is important to identify the area of tidal flats that would be filled.

6. Item 3.f would add "non-public access" to the types of private uses that should be identified. This phrase is needed to clarify for applicants the scope of areas that should be included. "Private, commercial, or other" has been viewed by applicants as a reference to structures, whereas the focus of this question is the use of the area. The additional phrase would clarify this point.
7. Item 3.h would include questions that would be answered in an attachment. Several additions are proposed in these 14 questions, as follows. In addition, several non-substantive editorial changes would be made.

Item h.4 would add "...minor fill for..." as a way of clarifying the types of fill the Commission may authorize. This language is specified in Government Code Section 66605a, and makes this question more correct. Further, 4.e would include "...in the

Suisun Marsh...” to clarify for applicants that the subsequent references to the Suisun Marsh Act and policies apply only to projects in the Suisun Marsh. This addition makes this multi-part question easier to read and understand.

Item h.5 would substitute “impacts” for “effects”, a correction that would make the language more consistent with the California Environmental Quality Act, the McAtter-Petris Act and *San Francisco Bay Plan*. Further, “including impacts on” would be used in place of “such as” in order to change this from an exemplary list to a list of impacts that should be addressed.

In item h.6, the use of “would be” in place of “proposed is” would improve the grammar and reflects the prospective nature of the fill.

Added to item h.13 would be a reference to the Commission’s digital library on its web site where applicants may view the relevant laws and policies. This is needed by applicants who do not otherwise have ready access to them.

New question h.14 would seek information relevant to tidal restoration projects including specific goals, success criteria, and monitoring program details. This information is necessary because the Commission’s Bay Plan Tidal Marshes and Tidal Flats Policy 5, and Subtidal Areas Policy 4, specify these elements as a necessary part of tidal restoration projects. Further, the Bay Plan Mitigation Finding b explains that restoration is one way of providing mitigation for adverse impacts of a project, and Policy 5 indicates that restoration is a preferred method. Therefore, the phrase “including mitigation projects” is a necessary part of the request for tidal restoration projects.

#### **Box 6 Shoreline Band Information**

1. Box 6 would be renumbered as Box 4 and contains editorial changes for clarity.
2. Item 4.a. would be relocated from current box 3.f and would help applicants in deciding whether Box 3 must be completed.
3. Item 4.c would state that the priority use areas shown on the Bay Plan maps may be viewed in the digital library on the Commission’s web site. This is needed to assist applicants who may not know the location of the priority use areas.

Further, “water-oriented” would be deleted. The priority use areas designated in the Bay Plan are all water oriented and this superfluous language could be confusing to applicants.

4. Existing items 6.c, d and e would be consolidated in the new item 4.d. Each of these three questions relates to portions of the shoreline band area and can be efficiently set out as parts within one question.
5. Item f includes non-substantive amendments to the text and renumbering to make it more readable.

Item f question 4 would seek one or more photographs of existing conditions within the shoreline band. Photographs of the shoreline are already requested for work in the Bay (currently Box 5 item o.3). Photographs are needed because they are invaluable in assisting the staff in understanding the site and the proposed project, especially if a site visit is not possible.

#### **Box 7 Public Access**

1. Box 7 would be renumbered as Box 5 and would indicate that this box must be completed by all applicants. Each box has either this direction, or a question to help an applicant determine whether the Box applies to the project. In the absence of this direction, applicants have been confused as to which boxes they must complete. The questions in this box would be reorganized and expanded.
2. Currently, Item 7.d requests limited details about the size of public access areas in a fill-in-the-blank format. A new question 5.a would seek this information along with more details in an expanded chart.

Item 5.a would require the applicant to identify the existing and proposed public access details for each category of access. This information is currently required in item 7.e. Use of a fill-in-the-blank format, to the maximum extent possible, is needed to help applicants provide this information and for the staff to identify the information. Currently item 7.e asks for the information in narrative form but that is not as organized and easy to read as a chart. The new format should improve the clarity of the information and be simpler to complete.

The chart seeks information on decks, piers, pathways and sidewalks, and landscaping. All these elements are currently requested in 7.e but make more sense when included in the chart.

The chart would ask for the area of public access in the Commission's Bay, certain waterway and managed wetlands jurisdictions. This is an important addition to current information because public access on fill in these areas would be subject to criteria of the McAteer Petris Act (66605) and Bay Plan policies related to Bay fill and managed wetlands that are different from those that apply to public access on the shoreline.

3. Item 5.b would consolidate all the narrative questions from Box 7, including current item 7.a, b, and c. Several editorial changes are included that make sentences easier and more straightforward to read.

Item b question 1 would expand to cover existing access or views from nearby roads or public access areas. This information is important in evaluating the need to make links to existing, adjacent access areas, and to determine if the project would have impacts on those adjacent access areas.

This question would also request photographs. Photographs are needed because they are invaluable in assisting the staff in understanding the site and the proposed project, especially if a site visit is not possible.



“Views” is added along with “public access” which reflects the reference to views early in this question and would improve the consistency of the question. The Bay Plan policies on Appearance, Design and Scenic Views policies emphasize that views are an important element of public access and should be protected and developed where feasible. This information will allow the Commission to determine whether protection or development is needed and appropriate.

Item b.2 would delete the yes-or-no question. The most important question is for the applicant to describe how the project will or will not adversely impact access and views, and the question is modified to reflect this point. This information is needed to satisfy the Bay Plan policies on Appearance, Design and Scenic Views. For instance, Policy 2 states: “All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas....” Policy 8 states: “Developments along the shores of tributary waterways should be Bay-related and should be designed to preserve and enhance views along the waterway, so as to provide maximum visual contact with the Bay....”

Item b.4 would include an edit for simplicity and would ask the applicant to describe the impact of the project on existing adjacent public access uses and roads. This information would be consistent with the Bay Plan policies on Appearance, Design and Scenic Views, especially Policy 2 quoted above. This information would also be necessary to an overall evaluation of any project impacts and allow the staff to assist the applicant in any modifications to alleviate impacts.

Additions to item b.6 would afford the applicant the change to describe public access features not otherwise covered in this Box. A complete understanding of the public access that exists and that would be provided is important in satisfying the Commission’s policies on public access.

Item b.7 would replace the outdated term “handicapped” with “disabled.” This reflects currently accepted terminology used to describe persons with disabilities, as used in the Americans with Disabilities Act.

Item b.8 would ask for the “proposed” connections to the nearest public street or adjacent public pathways. In the past, applicants have simply described the existing conditions. This clarifies that the applicant should focus on the proposed project.

New item b.10 would ask for a description of wildlife use, habitats, and the degree of human use that may occur, any potential adverse impacts to wildlife, and how adverse impacts could be avoided by the siting, design and management of the access. This information is needed to satisfy the Bay Plan Policies on Public Access. Policy 4 states, among other requirements: “Public access should be sited, designed and managed to prevent significant adverse effects on wildlife. To the extent necessary to understand the potential effects of public access on wildlife, information on the species and habitats of a proposed project site should be provided, and the likely human use of the access area analyzed.” Information on these elements is important in evaluating the project under the policies.

### Box 8 Dredging Information

1. Box 8 would be renumbered and renamed as Box 6 Dredging and Sand Mining Information. Sand mining is a type of dredging because material is scooped or suctioned from the Bay bottom and taken to another location. Sand miners currently obtain a permit for dredging. The addition would clarify that applicants proposing to mine sand should complete this Box. The Bay Plan policies on dredging apply to sand mining with regard to water quality and other criteria, except that sand is not disposed in the Bay but is sold for commercial purposes. The Bay Plan policies on Subtidal Areas state: "Any proposed filling or dredging project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project...." Policy 2 states: "Subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife (e.g....sandy deep water...) should be conserved....dredging projects in these areas should therefore be allowed only if: (a) there is no feasible alternative; and (b) the project provides substantial public benefits." Sand mining should therefore be evaluated for any impacts sandy subtidal areas. The addition of sand mining is an important clarification to this Box to ensure that the Commission receives this information.
2. Item 6.a adds "managed" to describe wetland. This accurately reflects the McAteer Petris Act's description of the Commission's jurisdictions (Government Code Section 66610(d)).
3. New item 6.b would ask whether the applicant is submitting a DMMO application. This is a voluntary application used by dredgers and sand miners that may be submitted to all government agencies that regulate dredging in San Francisco Bay. If the applicant completes the DMMO application and submits a copy, the applicant need not complete this Box. This saves duplication and is more efficient for the applicants.
4. Item 6.c would change "purpose" of dredging to "type," and offers three options. The type of dredging is the critical question because different regulations and policies would apply to these three types of activities. Further, applicants haven't always understood the goal of this question. The changes will allow applicants to quickly note the type of project.
5. Item 6.d would add "sand mining" for the reasons stated above in point 1 for this box.
6. Items 6.e and 6.f would provide a place to identify the volumes and areas that would be dredged from each of the identified areas rather than seeking one total figure for volume and area. Identifying the volume and square footage dredged from each area is necessary to address the Bay Plan policies relevant to conserving these areas. These are as follows.

Bay Plan Subtidal Areas Policy 1 states: "Any proposed...dredging project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on:...(b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects."

7. Bay Plan Tidal Marsh and Tidal Flat Policies 1 and 2 state:

“1. Tidal marshes and tidal flats should be conserved to the fullest possible extent...dredging projects that would substantially harm tidal marshes or tidal flats should be allowed only for purposes that provide substantial public benefits and only if there is no feasible alternative.”

“2. Any proposed...dredging project should be thoroughly evaluated to determine the effect of the project on tidal marshes and tidal flats, and designed to minimize, and if feasible, avoid any harmful effects. Therefore it is necessary to know the volumes dredged from each of these areas in order to assist the evaluation required by the Bay Plan.”

The Suisun Marsh Protection Plan Land Use and Marsh Management Policy 1 states that “...both land and water areas should be protected and managed to enhance the quality and diversity of the habitats.” Policy 15 states: “Riparian vegetation in the immediate Suisun Marsh watershed should be preserved due to its importance in the maintenance of water quality and its value as Marsh-related wildlife habitat. Stream modification should only be permitted if it is proved necessary to ensure the protection of life and existing structures from floods and only the minimum amount of modification necessary should be allowed.”

Knowing the volumes and locations to be dredged would allow an evaluation under the policies to determine whether important habitats or physical processes would be adversely impacted by the project.

8. Existing items d and e are duplicative of other questions and so would be deleted.
9. Item 6.g would change “disposed” to more correctly state “deposited” because dredged material may not be disposed in the Bay, but may be taken upland to a landfill, to a site that will be restored to tidal marsh or, in the case of sand mining, to a dock for sale.
10. Item 6.h would add a place to note the volume of material that would be beneficially reused. This is important because the Bay Plan policies on dredging favor reducing the amount of material disposed in the Bay, and favor reusing the material beneficially such as in marsh restoration projects, landfill capping, or other beneficial use. Bay Plan Dredging Policy 3 states: “Dredged materials should, if feasible, be reused or disposed outside the Bay and certain waterways.”
11. Item 6.j would request the project depth and the amount of overdredge. These dimensions are critical to determine the extent of the project and, therefore, its potential impacts on habitats, bathymetry, and hydrology in the Bay. These figures are also important so the staff can determine whether the project is limited to a maintenance dredging project (that is, whether the depth and overdredge amounts will not increase over prior dredging episodes) or rather should be considered a new dredging project.
12. Item 6.k would help pinpoint small dredging projects that may be easier to permit, saving time for the applicant and making the permit process shorter.

13. Item 6.l, question 2, would require applicants to submit, rather than describe, the results of specified tests, rather than “investigations” and “the nature and content of dredged material.” A narrowing of the required “investigations” to specified tests, and requiring their submittal, would reflect the Bay Plan Water Quality and Dredging Policies. Water Quality Policy 1 states: “Bay water pollution should be prevented to the greatest extent feasible.” Water Quality Policy 2 states: “Water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay...and should be protected from all harmful or potentially harmful pollutants.” Knowing the types and results of testing would help to determine what impacts, if any, the dredged material may have.

The Bay Plan Dredging Policy 6 states: “Dredged materials disposed in the Bay and certain waterways should be carefully managed to ensure that the specific location, volumes, physical nature of the material, and timing of disposal do not create navigational hazards, adversely affect Bay sedimentation, currents or natural resources, or foreclose the use of the site for projects critical to the economy of the Bay Area.” The revised item would satisfy this policy by providing more information about the nature and impact of the dredged material.

14. Item 6.l, question 4, affords the applicant an opportunity to draw on any other policy or law that offers support for the project. This question is similar to Box 3.h question 14, relevant to Bay fill projects.

#### **Box 9 Government Approvals**

1. Box 9 would be renumbered as Box 7 and would indicate that this box must be completed by all applicants; other agency approvals will apply to almost every proposed project and the Commission either requires this information (local discretionary approvals) or uses the information to coordinate with other agencies.
2. The local government approvals should be limited to those that are discretionary, as required by the McAteer Petris Act. The amended Box would reflect that limitation.
3. The column indicating the date the government approval is expected would also ask the date when approval is received in cases where other governmental agencies have taken action before an applicant submits this application to the Commission.

#### **Box 11 Environmental Impact Documentation**

1. Box 11 would be renumbered Box 8. Every applicant would complete this box because a lead agency will likely have evaluated the project and made an environmental determination whether the project is exempt from CEQA, will have issued a “negative declaration,” or will have prepared an environmental impact report.
2. Existing items a and b would be merged and the language clarified. Two separate questions are not needed here. The question would ask the applicant to identify the exemption in a supporting document. The type of exemption is important for the Commission in order to know the type of analysis that was performed. If the Commission disagrees with the exemption, the Commission may, under its McAteer Petris authority, obtain additional information on environmental impacts.

3. The reference to the environmental documents in item b would be corrected. In addition, the application would state that if an environmental impact document is longer than 10 pages, the applicant must submit a summary. The document and summary are currently required by the Commission's regulation Appendix F. Stating the requirements here would be a convenience for.

#### **Box 12 Disclosure of Campaign Contributions**

1. Box 12 would be deleted but the contents would be added to Box 1.

#### **Box 10 Public Notice**

1. Box 10 would be renumbered as Box 9. The Commission's regulations require notice to adjacent owners and residents of property, and so all applicants must respond. This is a convenient location for applicants to submit this information.
2. Item b would cue applicants to use an attachment in case there are more than two other persons known to be interested in the project. This information allows the Commission to notify all known interested parties of any hearing on the pending application.

#### **Alternatives**

The Commission cannot leave the application in its current state because the form is out of date and does not reflect the recent revisions and additions to the policies found in the Commission's *San Francisco Bay Plan*. No other alternative application form revisions were considered.

The Commission must determine that no alternative it considers would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

#### **Impacts on Small Businesses**

The impact on small businesses due to amendments to the permit application form is not significant. Amendments to the application may result in more time needed to respond to the new questions. On the other hand, the application will be clarified and streamlined and this may result in less time needed to respond to the entire application. Quantification of the time needed to respond to the application likely varies with the individual. In any case, the additional time, and therefore cost, to respond to amendments to the application are likely insignificant when compared with the overall time needed to complete the existing application.

#### **Material Relied Upon**

None.